

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

FAIRFAX DIANE RILEY

PLAINTIFF

VS.

CASE NO. 4:06CV001535 JMM

DEPARTMENT OF HUMAN SERVICES, ET AL.

DEFENDANT

AMENDED ORDER

Before the Court is plaintiff's *pro se* Motion to Proceed *In Forma Pauperis* and Motion for Appointment of Counsel. For the reasons stated below, the motions are denied (#1 and #3).

The *In Forma Pauperis* statute, 28 U.S.C. § 1915, is designed to ensure “that indigent persons will have equal access to the judicial system.” *Greaser v. State of Mo., Dep’t of Corrections*, 145 F.3d 979, 985 (8th Cir. 1998). The decision of whether to grant or deny *in forma pauperis* status under section 1915 “is within the sound discretion of the trial court.” *Cross v. General Motors Corp.*, 721 F.2d 1152, 1157 (8th Cir. 1983).

Plaintiff's earnings from her current employment of \$53,000 per annum and her assets which include stocks do not entitle her to be treated as indigent and (1) to be excused from payment of the filing fee of \$350.00 to initiate her complaint or (2) to have an appointed counsel. PLAINTIFF IS HEREBY DIRECTED TO SUBMIT IN FULL THE REQUIRED FILING FEE OF \$350.00 ON OR BEFORE NOVEMBER 13, 2006. IF PLAINTIFF FAILS TO DO SO HER COMPLAINT WILL BE DISMISSED WITHOUT PREJUDICE.¹ Plaintiff is further

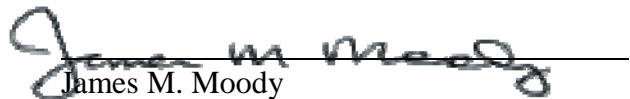
¹Plaintiff should be aware that Under Title VII, plaintiff must file her lawsuit within 90 days of the receipt of her right to sue letter and a dismissal without prejudice will not toll that 90-day period.

advised that she will be responsible, once the filing fee is paid, for obtaining service of process on defendants as the denial of *in forma pauperis* status precludes appointment of counsel or service of process at the government's expense.

Plaintiff is given notice of Local Rule 5.5(c)(2) of the United States District Courts for the Eastern and Western Districts of Arkansas which states that *pro se* litigants are required to monitor the progress of their case, to prosecute or defend the action diligently, and to respond to any communication from the Court within thirty (30) days or their case could be dismissed without prejudice.

Plaintiff should be aware that her complaint may be subject to a motion to dismiss or a motion for summary judgment filed by defendant.

IT IS SO ORDERED this 23 day of October, 2006.


James M. Moody
United States District Judge